Section 251(c).[17] If pricing standards vary from state to state, a new entrant could find itself pursuing different strategies in different markets due solely to differences in pricing methodologies used in the states. By preventing a new entrant from pursuing a single, integrated strategy for entering the local markets in multiple states, non-uniform pricing standards would seriously impede new entry and full-service competition.

The FCC recognizes in the NPRM that only seven states have markets in which multiple firms offer competing switched local services, and the majority of states have not adopted laws or regulations to enhance local competition. **[NPRM, para. 5.]** The laws and regulations in states that have taken some action vary widely, creating a patchwork quilt of regulations. As more states begin to adopt laws and policies addressing local competition, non-uniformity among states could increase dramatically. The FCC correctly concludes in the NPRM that such non-uniformity would make new entry more burdensome from both a technical and economic perspective. **[NPRM, para. 30, 50.]**

---

[17] The states themselves anticipate some national standards will be needed to guide their pricing decisions. For instance, the staff at the Illinois Commerce Commission has deferred several issues concerning the pricing of unbundled switching, including the appropriate definition of "reasonable profit." The staff noted that the 1996 Act "does not define 'reasonable profit' in Section 252(d)(1)" and it "expects a definition will be established either by the FCC . . . or in the subsequent investigation and/or suspension of Ameritech Illinois' and Centel's LSP tariffs." See Reply Brief of the Staff of the Illinois Commerce Commission, Docket Nos. 95-0458 & 95-0531, filed April 25, 1996, at 35.

The FCC's own duties under 252(e) may be hampered by the need to resolve uncertainties in various statutory provisions when a state commission "fails to act to carry out its responsibility under this section in any proceeding or other matter under this section."[18] This would create even further delay in the new entrant's ability to enter the local exchange market. Finally, federal courts can more readily and fairly issue decisions regarding the interpretation of, or a carrier's or state's compliance with, the provisions of sections 251-252 if they are guided by clear and detailed federal rules.

The FCC should have no illusions whether ILECs would seek to exploit the absence of national rules to their own advantage and to the detriment of potential new entrants. In its Expanded Interconnection proceedings involving physical and virtual collocation, the FCC obtained first-hand experience with the ingenuity of ILECs in devising a maze of obstacles for potential new entrants.[19] ILECs have already engaged in similar tactics with respect to the negotiations instituted by other carriers after enactment of the 1996 Act. Some ILECs have refused to negotiate co-carrier arrangements prior to the completion of this proceeding. Others have insisted that

---

[18] 47 U.S.C. § 252(e).

[19] The FCC correctly notes in the NPRM that "in the past, disputes before the FCC between LECs and interconnectors have arisen most often where our rules lacked specificity, or where no standard had been adopted." **[NPRM, para. 50.]**.

carriers sign confidentiality or non-disclosure agreements, that carriers signed "forced confessions" admitting that the ILEC's proposed arrangements comply with Section 271, or that carriers waive legal remedies and other rights as a precondition to negotiations. Still other ILECs have insisted upon the right to treat their own affiliates on a preferential basis with respect to unregulated services such as billing and collection. This patently abusive behavior proves the FCC's insight that "by narrowing the range of permissible results, concrete national standards would limit the effect of the incumbent's bargaining position on the outcome of the negotiations." **[NPRM, para. 31.]**

II. THE FCC SHOULD ADOPT RULES SPECIFYING THE NECESSARY UNBUNDLED NETWORK ELEMENTS AND REQUIRING ILECS TO PROVIDE THE NECESSARY OPERATIONAL SYSTEMS AND SUPPORT

Based on consumer demand, the telecommunications market is heading quickly towards full-service competition where carriers offer end-user subscribers a package of local exchange, intraLATA toll, interexchange, international and even wireless services. The ILECs have a well-lighted road ahead of them as they move forward to add long distance and international to their service packages. The long distance industry has already developed cost-based wholesale transmission offerings, as well as the operational and back-office systems necessary for competitors to turn up customers quickly and efficiently. By contrast, the road has not yet been built that new entrants must travel in order to develop the local services necessary to be full-service providers. For those carriers to compete in the full-service

market, it is imperative that the FCC do the following: First, adopt rules specifying the necessary unbundled network elements; second, take the actions necessary to ensure that ILECs develop the operational and back-office systems necessary for requesting carriers to combine network elements into local services of their own design; and, third, require the ILECs to develop PIC-like systems necessary to permit long distance carriers to sign up local customers as fast, efficiently and inexpensively as the ILECs can sign up long distance customers.

A. Section 251(c)(3) Is An Essential Option For Carriers to Enter the Local Market

[NPRM, paras. 74-157.] Section 251(c) creates two primary options by which carriers can enter the local market broadly in order to become full-service providers. Section 251(c)(3) enables them to obtain unbundled network elements through co-carrier arrangements with the ILECs for the provision of any "telecommunications service," and Section 251(c)(4) enables them to purchase and resell local exchange services from the ILECs at wholesale rates. Through co-carrier arrangements under Section 251(c)(3), a competing carrier effectively replaces the ILEC by acquiring the facilities over which all services are provided to customers. They become responsible for designing and providing any and all services over those facilities, including local exchange as well as originating and terminating exchange access. By contrast, Section 251(c)(4) restricts carriers to reselling the ILECs' existing retail services, limiting their

ability to design their own local services and precluding them from serving as the exchange access carrier for the customer.[20] Therefore, it is essential that the FCC adopt rules that make both entry options meaningful for carriers.

The FCC has correctly recognized that carriers will not purchase unbundled network elements as a substitute for building their own local facilities.[21] To the contrary, carriers will utilize network elements as a first-level entry option into the local market. Once they have secured the ability to use the ILEC's bottleneck local network in unbundled elements at cost-based rates to provide local services immediately, carriers can incrementally build out their own networks when and where it makes business sense to do so. Over time, many carriers will depend less upon the ILECs' network and more upon their own network infrastructure. While carriers may not seek to replicate the ILECs' local exchange networks in their entirety, it is likely that some carriers will replicate substantial portions of that network over time. Obtaining unbundled network elements at

---

[20] For example, a carrier purchasing network elements under Section 251(c)(3) can provide local calling areas to end-user customers that may be larger or more strategically situated than those of the ILEC. In addition, the carrier can offer vertical features or Centrex offerings the ILEC has chosen not to provide.

[21] **NPRM, para. 75** ("The ability to purchase, at reasonable, cost-based prices, access only to those network elements a carrier needs allows new entrants to enter the LEC's market gradually, building their own networks over time, and purchasing fewer unbundled elements as their own networks develop.")

economic cost from ILECs today in a manner that permits the provision of local services, including telephone exchange service and exchange access, is a crucial stepping stone for future facilities-based competition against the ILECs.

B. The FCC Must Establish Equivalent Entry Options for ILECs and Long Distance Carriers

[NPRM, paras. 74-157.] In adopting rules to implement Section 251(c)(3), it is imperative that the FCC establish and meet the objective of ensuring that long distance carriers have an opportunity to enter the local market to engage in full-service competition that is equivalent to the opportunity that ILECs have to enter the long distance market for the same purpose. Competitive conditions in the full-service market will be no greater than the least competitive market segment. It does not matter that the long distance market is vigorously competitive today; the full-service market will reflect competitive conditions in the local market as the lowest common denominator. Long distance carriers must have meaningful options under Section 251(c) to enter the local market or they will be unable to compete effectively for full-service customers.

Competition in all market segments -- not just the local market -- depends upon the ability of the FCC and state commissions to implement Section 251(c) to engender new entry. If the ILECs retain market power over local services, it will be impossible to sustain current competitive conditions in long distance (or other market segments) as end-user customers

increasingly prefer full-service providers. In that situation, ILECs would use their monopoly local revenues as leverage to obtain end-user customers on a one-stop-shopping basis.

There is much work to be done before the entry option that Section 251(c) provides in theory is the practical equivalent of the options that ILECs enjoy today for entering the long distance market. At such time as they enter the long distance market, the ILECs can select among four nationwide facilities-based long distance networks, one of which was designed and built expressly to serve as a "carrier's carrier" network. In addition, there are a number of facilities-based regional networks. In their own regions, several Bell Companies have already built and paid for massive long distance networks with substantial excess capacity.[22] In support of various motions and requests for waiver of the interexchange restriction in the MFJ, the Bell Companies submitted affidavits showing that their existing networks could be utilized for long distance traffic at marginal cost without significant additional investment.[23] Should

---

[22] E.g., "Testimony of Joseph Gillan on Behalf of the Florida Interexchange Carriers Ass'n," Docket No. 920260-TL, filed Nov. 16, 1992 before Florida Public Service Comm'n, at pp. 39-44 & Exh. JPG-6 through JPG-9 (noting that 55-90% of active capacity, and between 88-98% of potential capacity, in Southern Bell's "administrative" interLATA network is idle).

[23] E.g., Affidavit of William Taylor at 44, submitted in support of Request of NYNEX Corporation for a Waiver to Provide Interexchange Services in New York, filed Aug. 25, 1994 ("Carrying interLATA traffic would be a way -- at small marginal cost -- [for NYNEX] to use its current network to provide a new facilities-based statewide and regional

Continued on following page

the Bell Companies receive approval to enter the in-region interLATA market pursuant to Sections 271-272 of the 1996 Act, these networks will provide additional facilities-based competition against existing long distance networks in offering wholesale capacity to ILECs and others. The result is that any new entrant into the long distance industry can quickly construct its own long distance service offerings from transmission capacity obtained over these networks at deeply-reduced wholesale rates. GTE and several Bell Companies have already done so in certain regions, and the Bell Companies will be able to do so in their own regions upon receiving approval from the FCC under Section 271 to enter the in-region interLATA market.[24]

By contrast, the ILECs' local exchange network is the ultimate bottleneck in the telecommunications industry. The ILECs control approximately 99% of local revenues, and there are no competing networks that offer anywhere near the capacity and ubiquity of the ILECs' existing networks. **[NPRM, paras. 6-7.]** As Congress and the FCC agree, it is highly unlikely that any

---

Continued from previous page

> service. . . . NYNEX's participation in the interLATA market would entail no substantial additional costs or investment."].

[24] See, e.g., "Telecom Act Fuels Regulatory Wars", PC Week, Vol. 13, No. 14 (April 8, 1996)(GTE moving into new long-distance offerings); "News, Analysis & Commentary: DEALS -- For Whom the Baby Bells Toll", Business Week 32 (May 6, 1996) (Bell Atlantic Chairman and CEO, Raymond Smith, states that long distance is a market that "you can enter with almost no investment.")

other carrier will seek to replicate that network in the near future.[25] The ILECs have installed more than 18,000 local switches in their networks,[26] and the cost of building a second local exchange network to serve even a fraction of the nation would require many tens of billions of dollars in capital investment. Cable and wireless providers still are not close to offering meaningful alternatives in size and ubiquity to the ILECs' networks. **[NPRM, para. 7.]** Clearly, there are no actual or potential competitive forces today which will pressure the ILECs to unbundle their networks, let alone force them to do so meaningfully and at cost-based rates.

Entry opportunities are asymmetrical in another critical respect. As regards long distance service, the industry has already developed and automated the operational and back-office systems necessary to support presubscription by end-user customers. Those automated systems are sized to permit the rapid, efficient and inexpensive transfer of thousands of customers each day from one long distance carrier to another. By contrast, equivalent systems do not yet exist for long distance carriers desiring to turn up local customers, and the ILECs are

---

[25] See Joint Explanatory Statement at 148 ("It is unlikely that competitors will have a fully redundant network in place when they initially offer local service, because the investment necessary is so significant"). [cited in **NPRM, para. 7.]**

[26] Among all long distance carriers, only AT&T has more than 100 switches nationwide.

not moving quickly to develop them.[27] The ability to obtain unbundled network elements under Section 251(c)(3) will not place long distance carriers on an equal footing with ILECs until these automated systems are in place and working efficiently.

C. The FCC Should Require ILECs To Engage In The Unbundling of Necessary Network Elements

[NPRM, paras. 74-85, 92-116.] The 1996 Act requires the ILECs to make available to other carriers "network elements" to be used by those carriers to provide their own local exchange and exchange access services. The Telecommunications Carriers for Competition, of which CompTel is a member, includes in its comments a listing of the basic network elements that would comprise a first-round minimum unbundling. In endorsing that list, CompTel would emphasize the critical importance of obtaining network elements in practical configurations and combinations that will make such network elements useful on a ubiquitous scale.

The network elements most likely to provide an immediate foundation for competition are: (1) local loop; (2)

---

[27] As a related illustration of the enormous obstacles that will need to be overcome in developing equivalent PIC change procedures for local customers, Bell Atlantic proposed in Pennsylvania (Docket Nos. A-310203F0002, et al.) to limit unbundled loops to 25 per week for each carrier for a three-month period, with no assurance that systems which will be able to handle greater volumes of traffic will be in place thereafter. It is hardly a competitive market when new entrants are limited to signing up 1300 customers per year.

local switching; (3) transport/call termination; (4) signalling; and (5) operational systems necessary to configure these elements into actual offerings. Each of these foundational elements can be subdivided into separate and discrete subelements. For instance, the loop consists of feeder and distribution, while common transport could include transmission and switching, and call termination would encompass the final point of switching and the use of the loop to the customer. The availability of a particular function as an individual network component does not diminish the need to obtain key combinations supported by operational and administrative systems structured to reflect the way they are typically purchased. For instance, while a network interface device, loop distribution, loop concentrator and loop feeder are each distinct network elements, the greatest demand can be expected for the combination of those elements (i.e., the loop itself).

The FCC should clarify that all unbundled network elements must be separately and independently available to requesting carriers. Put in other words, a requesting carrier should be able to choose only the elements and combinations of elements it wants, including all of them if it so desires.[28] CompTel supports the FCC's tentative conclusion that states

---

[28] CompTel agrees with the FCC that Section 251(c)(3) fosters competition by ensuring that carriers can purchase "access to network elements that they do not possess, without paying for elements that they do not require." **[NPRM, para. 75.]**

should be permitted to specify additional unbundling beyond that required by the FCC. **[NPRM, para. 78.]** The FCC also should clarify that a requesting carrier who purchases individual subelements should not pay more in the aggregate than a carrier who purchases the same subelements as a single network element.

The 1996 Act references each of the five network elements listed above. The first three are mandatory for Bell Companies who desire to enter the in-region interLATA market. The fourth and fifth elements are included in the definition of the term "network element" to include "subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing or other provision of a telecommunications service."[29] Those elements also are a logical outgrowth of the requirement in Section 251(c)(3) that ILECs shall provide network elements "in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service." **[NPRM, para. 97.]**[30]

---

[29] 47 U.S.C. § 271(c)(2)(B)(iv)-(vi).

[30] In addition, CompTel supports American Network Exchange, Inc. and U.S. Long Distance, Inc., who show in their comments in this proceeding that the Commission should require the ILECs to provide unbundled access to network elements useful for the provision of casual calling services.

D. The FCC Should Require ILECs to Unbundle Local Switching Capacity, Not Merely a Port

[NPRM, paras. 98-103.] The unbundled local switching element is critically important. Even if the ILECs properly unbundle all other network elements, a carrier could not use them to create its own switched telecommunications services unless it obtains generic local switching capabilities in a useful manner. The FCC should require ILECs to establish a network element for unbundled local switching ("ULS") as the virtual lease of switch capacity, known in Illinois as a local switching platform.[31] The ULS element must provide dialtone; provide digit translation; enable the carrier to connect lines; provide vertical features; collect information necessary for billing; and enable the carrier to designate the trunk groups to which interoffice traffic will be routed and establish other, specific instructions for the routing of traffic.

The following minimum vertical features must be available: speed dialing; call waiting; call forwarding; three-way calling; intercom; remote call forwarding; DID signalling; caller ID; priority/distinctive ringing; repeat dialing; call

---

[31] Illinois is the state which has made the most progress to date regarding the creation of an unbundled local switching element in Docket No. 95-1458. In addition, the Office of the Trial Staff for the Pennsylvania Public Utility Commission has recognized the need for immediate unbundled switching capacity, not a mere unbundled port. See Main Brief of Trial Staff, Docket Nos. A-310203F0002, et al., before the Pennsylvania Public Utility Commission, May 2, 1996, at 13-14.

return; selective call forwarding; and hunting. The FCC should make clear that the ULS element must offer carriers the ability to fashion their own Centrex offerings. As regards the billing function, the requesting carrier must obtain the capability to bill the end-user customer as well as other carriers for originating and terminating exchange access.

The ability to designate the trunk assignment for the termination of traffic is necessary for the requesting carrier to route traffic to non-ILEC networks. Without this capability, traffic would effectively be channeled back into the monopoly ILEC network, and a carrier's ability to create its own services would be unduly restricted. At a minimum, the ULS element must give carriers the ability to designate the trunk assignment and establish the routing parameters for the following categories of traffic: domestic interLATA; presubscribed intraLATA; non-presubscribed intraLATA; 800/888; 900; interLATA operator traffic; intraLATA/0-/0+ operator traffic; and international direct dialed.

It is wholly insufficient for an ILEC merely to offer a switch port. **[NPRM, para. 101.]** A so-called port simply permits a carrier to use its own local loop to access the ILEC's network, but it does not permit a carrier to define its own services. The typical port option requires that the carrier use the ILEC's local network for all routing and functions beyond the local loop, thereby perpetuating the ILEC's local bottleneck in contradiction to Congress' goals in adopting the 1996 Act. Nor

can a carrier who purchases a port fully replace the ILEC as the end-user customer's provider of telephone exchange service and exchange access. The FCC should require ILECs to establish a ULS element as described above regardless whether they also establish separate elements for switch ports.

E. The FCC Should Adopt a ULS Rate Structure To Reflect How The ILECs Incur Switching Costs

[NPRM, para. 153.] The FCC asks for comments on whether the "switch platform" should be priced on a flat per-line basis, with discounts for volume and term commitments. CompTel supports the use of flat-rated pricing for the ULS element on an interim basis, as well as giving purchasing carriers the ability to activate vertical features without paying separate charges. Volume and term discounts are appropriate only if they can be justified on a TSLRIC basis.

As the industry continues to acquire information about how ILECs incur switching costs, and how busy hour costs are related to line connections, trunk connections or other factors, CompTel would support a further inquiry to determine whether a combination of flat and usage-based rates would more precisely reflect how ILECs incur switching costs.[32] It is well-established that switching costs are a function of line connections, trunk connections and busy-hour demand. A flat per-line charge to

---

[32] **NPRM, para. 150** (recognizing that "costs should be recovered in a manner that reflects the way they are incurred").

recover the TSLRIC costs of line connections is cost causative. Because trunk ports are normally shared by several carriers, a usage-based charge may be the most efficient way to recover the TSLRIC costs of trunk connections. Busy-hour costs should be recovered through dual flat and usage-based charges, reflecting the fact that, under current known conditions, line and trunk connections are a reasonable reflection of busy-hour usage. Vertical features are inherent in the switch platform purchased by a carrier, who should be able to activate such features without paying a separate charge. In addition to its cost-causative nature, this rate structure has the virtue of being relatively easy to administer.

F. The FCC Should Require ILECs To Price Unbundled Loops On A Flat-Rate Basis

[NPRM, paras. 149-154.] Loop costs do not vary with usage. Because the costs of provisioning a loop are not traffic-sensitive, the only appropriate rate structure for an unbundled loop is a flat rate per period of time. Any rate structure that attempts to recover non-traffic sensitive loop costs through a traffic-sensitive rate is not cost-based and would send improper price signals that could result in uneconomic behavior and wasted resources. In 1995, the Texas legislature passed a law which requires the Texas Public Utility Commission to adopt a usage-

sensitive rate for loops when offered for resale.[33] This provision is clearly at odds with the requirement of Sections 251(c) and 252(d) of the 1996 Act. The Commission should mandate the use of a flat-rate structure for unbundled loops to prevent such conflicts from occurring.

G. The FCC Should Establish Industry Standards For Operational and Back-Office Systems

[NPRM, paras. 79 & 90-91.] The FCC should establish a uniform national policy under Section 251(c) that all ILECs develop automated PIC-like procedures which are comparable to those in place today for the long distance industry. It is essential for competition among full-service providers that long distance carriers have the ability to sign up local customers as quickly, efficiently and inexpensively as ILECs can sign up long distance customers.[34] The FCC should establish an aggressive, firm deadline by which ILECs must comply with this policy. In no event should the Bell Companies be able to demonstrate full compliance with Section 251(c) for purposes of entering the in-region interLATA market until they have satisfied this policy.

In addition, the FCC should clarify that Section 251 (c)(3) requires the ILECs to provide the operational and back-

---

[33] See Public Utility Regulatory Act of 1995, Tex. Civ. Stat. Ann. 1446c-O (Vernon Supp. 1996), Section 3.453.

[34] It is imperative that the cost of PIC changes for local subscribers be comparable to the cost of PIC changes for long distance subscribers, which are frequently $5 or less.

office systems necessary for requesting carriers to purchase network elements and then combine such elements into telecommunications services of their own design. This is an explicit statutory requirement, as Section 251(c)(3) directs ILECs to "provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service." Without this requirement, a carrier's ability to enter the local market through the purchase of unbundled network elements is compromised or even eliminated. The FCC should pointedly reject the view of several ILECs that they have no obligation to provide the operational and other support necessary for carriers to offer telecommunications services through combinations of network elements. As with PIC-change procedures, the FCC should clarify that the Bell Companies have not complied fully with Section 251(c) for purposes of entering the in-region interLATA market until they have satisfied this policy.

H. The FCC Should Clarify that Requesting Carriers May Obtain Any or All Network Elements from ILECs

[NPRM, paras. 92-116.] Some ILECs have interpreted the 1996 Act to require a requesting carrier under Section 251(c)(3) to provide at least one of the network elements which it plans to combine into a telecommunications service. There is absolutely no support in the language of Section 251(c)(3) for this interpretation. As such, this argument is a patent attempt by the ILECs to thwart competitive new entry, thereby undermining

Congress' goal, as reflected in Section 253(a), of removing all barriers to entry into interstate and intrastate markets. The ILECs' interpretation would eliminate the ability to configure services under Section 251(c)(3) everywhere that the ILEC network is the only available option today, which is virtually the entire United States. Congress did not provide carriers the tools to compete with the ILECs just to restrict carriers from using those tools only where competitive alternatives already exist. The FCC should interpret Section 251(c)(3) according to its language to enable requesting carriers to enter into co-carrier arrangements with ILECs to obtain any and all network elements necessary or useful to providing their telecommunications services.

I. The FCC Should Clarify That A Carrier Can Purchase Unbundled Network Elements From An ILEC To Provide Any Telecommunications Service

[NPRM, paras. 84 & 159-165.] The FCC has tentatively concluded that 251(c)(3) prevents ILECs from collecting access charges for long distance traffic routed over the facilities which other carriers have already purchased as network elements. That conclusion is correct. As noted below, when a carrier purchases the network facilities over which traffic is routed to and from an end-user subscriber, that carrier has completely replaced the ILEC as the subscriber's carrier and the ILEC's commercial relationship with that customer has ended. That carrier, not the ILEC, is now responsible for providing all local services to the subscriber, including telephone exchange service

and originating and terminating exchange access. Any traffic routed over those facilities becomes the responsibility of the requesting carrier, not the ILEC. The ILEC has no legal or equitable claim to access charges for long distance traffic routed over those facilities because it has already been paid in full by the requesting carrier for the economic costs of the facilities.[35]

J. The FCC Should Establish Non-Exclusive Procedures For The Ongoing Implementation of Section 251(c)(3)

[NPRM, paras. 74-114.] The FCC should establish procedures which parties can invoke for the purpose of establishing new network elements which the ILECs must provide, as well as other policies and rules necessary to implement Section 251(c)(3). Market and technological developments will create a continuing need for new elements as the industry moves forward to implement the 1996 Act.[36] The FCC should clarify that its procedures are non-exclusive so that parties will have the option of raising such issues before state commissions. As regards the procedures for filing a petition at the FCC, such

---

[35] For a discussion of the 1996 Act's requirement for rates based on economic costs, see Section IV., infra.

[36] In the NPRM, the Commission acknowledged the need to create flexible federal standards with respect to interconnection: "We believe that as technology advances, the number of points at which interconnection is feasible may change and acknowledge that the federal standard for minimum interconnection points should change accordingly." **[NPRM, para. 57.]** The same principle should apply with respect to network elements.

procedures would remove the need for parties to initiate costly and time-consuming rulemaking proceedings, thereby permitting the FCC to act quickly to promote competitive local entry or address industry problems. Certainly, the FCC should reject the ILECs' position that they should not have to provide additional network elements except in response to "bona fide" requests. We recommend that the FCC permit parties to file petitions seeking such relief, issue a prompt Public Notice on such petitions, and establish an accelerated pleading cycle of 21 days for comments and 10 days for reply comments.

K. The FCC Should Adopt Rules Regarding Points Of Interconnection That Are Technically Feasible

[NPRM, paras. 56-59.] CompTel endorses the FCC's tentative conclusion that a point of interconnection is "technically feasible" under Section 251(c)(3) if any ILEC currently provides interconnection to any carrier at that point or has done so in the past. The FCC also correctly identifies the need to establish a dynamic, not a static, policy on technical feasibility to ensure that additional points of interconnection will be added quickly and seamlessly as technology and markets develop. CompTel strongly supports the FCC's tentative conclusion that ILECs should bear the burden of proving that a point of interconnection is not technically feasible. This burden is reasonable because the ILECs possess the relevant data, and a presumption in favor of network

interconnection promotes Congress' goal of a more competitive telecommunications environment.

L. The FCC Should Adopt Rules Requiring ILECs To Unbundle The Advanced Intelligent Network

[NPRM, paras. 107-116.] Section 251(c)(3) requires ILECs to provide any requesting carrier with access to unbundled "network elements." Section 3(29) defines "network element" to include "features, functions, and capabilities that are provided by means of [a facility or equipment used in providing a telecommunications service], including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service."[37] This language requires the ILECs to provide access to the databases and signaling capabilities that comprise the advanced intelligent network ("AIN").

The logical or AIN local network elements include the signaling system 7 ("SS7") network. The signaling network provides call set-up functions to establish transmission paths for calls; access to remote databases for specialized call routing information (e.g., SMS database for 800 numbers); and various custom local area signaling features such as caller ID, call management, and routing capabilities. These and other AIN

---

[37] 47 U.S.C. § 153(29).

elements qualify as "databases" and "signaling systems" within the plain meaning of Section 3(29), and the Commission should require ILECS to offer AIN elements on an unbundled basis pursuant to Section 251(c)(3).

The only statutory limitation on the unbundling of AIN elements is the requirement that access be limited to "technically feasible point[s]." However, that limitation applies only to the manner in which a network element is provided, not to whether it is provided at all. Congress did not write the statute to distinguish between types of network elements that must be unbundled by the ILEC. Rather, Section 251(c)(3) is broadly worded to require the provision of all network elements "at any technically feasible point" on the ILEC's network. Therefore, the FCC should require ILECs to unbundle AIN features as separate network elements to comport with the clear intent of Congress.

In adopting AIN requirements, the FCC should clarify that ILECs must provide to requesting telecommunications carriers interconnection with AIN elements at all points at which carriers interconnect with AIN elements today. At a minimum, the Commission should adopt the approach used in Louisiana where ILECs are required to provide unbundled access to functions used in providing services to their own customers.[38] In this manner,

---

[38] Regulations for Competition in the Local Telecommunications Market, General Order, La. Pub. Serv. Comm'n (March 15, 1996).

the regulations requiring such access will help implement Congress' intent to "put new competitors . . . on the same footing with former monopolies."[39]

Widespread access to AIN elements will generate numerous benefits for consumers. Access by qualified telecommunications providers to logical network elements, such as (1) switch triggers and events, and (2) unmediated access for SCP, Adjunct, Internet Protocol, SMS, and SCE platforms will result in a proliferation of new services in the local exchange market to the ultimate benefit of end-user subscribers.

Lastly, the ILECs have maintained in the Commission's Intelligent Network proceeding (CC Docket No. 91-346) that granting open access to switch triggers and other associated logical network elements to any requesting entity would breach the security and integrity of the local exchange network. They argue that a mediation mechanism is essential to protect local network integrity.

The FCC should reject these self-serving claims. The directive for unmediated (i.e., nondiscriminatory) access to logical network elements to "any requesting telecommunications carrier" is clearly delineated in Section 251(c). The simple fact that Section 251 limits availability to "telecommunications carriers" effectively addresses all network security issues

---

[39] See 141 Cong. Rec. S8188 (June 12, 1995) (Remarks of Sen. Pressler), quoted in **NPRM, para. 49 n.68.**

raised by the ILECs since (1) telecommunications carriers already adhere to the security and network integrity compliance requirements and rigorous testing procedures necessary for the logical network interconnections routinely used in common carriage; and (2) industry carrier forums already exist, and are most effective, for the resolution of any network integrity and security issues that might arise in the future among carriers.

M. The FCC Should Create Transport Elements That Mirror Its Local Transport Rate Structure

[NPRM, paras. 105-106.] The FCC asks for comment upon the unbundling of transport facilities as network elements under Section 251(c)(3). CompTel agrees that the individual network links and nodes should be unbundled as separate elements. In that regard, for direct-trunked transport which transits the tandem location or other intermediate nodes, the Commission should require each link in that routing configuration to be an unbundled network element under Section 251(c)(3). **[NPRM, para 105.]** However, the Commission also should require the ILECs to establish a single network element for the end office-to-serving wire center transport provided via tandem switching to numerous long distance carriers today under the transport rate structure adopted by the FCC in CC Docket No. 91-213. Further, that network element should be priced on a per-minute basis consistent with the current transport rate structure. The pending appeal of the FCC's Third Memorandum Opinion and Order on Reconsideration